

STATE OF ALASKA
THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

T. W. Patch, Chairman
Paul F. Lisankie
Robert M. Pickett
Norman Rokeberg
Janis W. Wilson

In the Matter of the Tariff Revision Designated as)
TA835-2 Filed by ALASKA POWER COMPANY) U-14-002
for an Interim and Permanent Rate Increase)
_____)

HAINES BOROUGH’S PETITION TO INTERVENE

The Haines Borough (the “Borough”) submits this petition to intervene as a party in this proceeding. The Borough is a political subdivision of the State of Alaska, a duly organized home rule borough, and is in all ways qualified to participate in this proceeding. The Borough’s principal address is P.O. Box 1209, Haines, AK 99827 (Tel. No. (907) 766-2231). All correspondence and communications regarding this proceeding should be addressed to:

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I. BASIS FOR INTERVENTION

Any person who has a statutory right to be made a party to a proceeding will be permitted to intervene. 3 AAC 48.110(a). The Borough is unaware of any particular

statute conferring an explicit right to be made a party to this proceeding. Accordingly, the Borough seeks a discretionary grant of intervention.

The Borough is a significant customer of Alaska Power Company (“APC”) and will be substantially affected if the proposed permanent rate increase is approved and the interim rate not retroactively reduced. Furthermore, the Borough’s interests are closely aligned with those of individual Borough residents and property owners within it, who are also affected by this proceeding. Therefore, allowing the Borough to participate will be conducive to the ends of justice and will not unduly delay proceedings because the Borough can essentially represent those citizens as single stakeholder. 3 AAC 48.100(a). Accordingly, the Haines Borough, on behalf of itself and its citizens, respectfully requests that it be allowed to intervene in this proceeding.

II. DISCUSSION

The Commission's regulations give it discretion to allow intervention whenever it will be “conducive to the ends of justice and will not unduly delay the conduct of the proceeding.” 3 AAC 48.100(a). The Commission considers seven primary factors in determining whether intervention should be granted. 3 AAC 48.110(b)(1)-(7). Those factors are addressed below and demonstrate that the Borough’s intervention in this docket will be conducive to the ends of justice and will not unduly delay the conduct of this docket.

(1) The nature of the petitioner's right under statute to be made a party to the proceeding.

Though the Borough does not have a specifically identifiable statutory right to participate in this proceeding, consideration of the remaining factors, as is discussed in detail below, strongly supports the Borough's participation in this matter.

(2) The nature and extent of the property, financial, or other interest of the petitioner.

In 2013, the Haines Borough purchased and consumed approximately ___ kWh of energy supplied by APC at a cost of approximately \$_____. The Haines School District alone spends routinely spends in excess of \$10,000 on APC-provided utilities per month. The Borough therefore has a significant financial interest in ensuring that the rates charged by APC are appropriate under the Commission's regulatory standards. Unlike many parties who are regularly granted intervener status in rate-making cases, the financial burden on the Borough is not passed on to other customers. It is a direct and extremely significant operating cost that the Borough must bear itself. In addition, the citizens and businesses of Haines comprise a significant percentage of APC's customers, all of whom have substantial financial interests in ensuring that the rates charged by APC are appropriate and justified. Again, these users bear the costs of energy themselves and cannot pass them on to other end users. Therefore, the interests of both the Borough and its citizens in the rates charged by APC are direct and very real.

(3) The effect on petitioner's interest of the order which may be entered in the proceeding.

As described above, the Commission's orders and findings in this docket will directly affect the Borough and its residents because they are, separately and collectively, major consumers of power supplied by APC. APC is the only supplier of electricity in the Haines area. It seeks an across-the-board rate increase of 18.16%. Energy costs are already one of the most significant operating costs in the Borough's budget and for residents. The Borough cannot easily pass along increases in energy costs to its citizens, and it cannot look elsewhere for its energy needs. Rather, if the Commission approves APC's request to increase these operating costs increase by over 18% over the next three years, the Borough's budget will be significantly strained and the increase may come at the expense of other Borough services. This would work a double hardship on the citizens of Haines, who likewise will be hit with a rate increase for their residential or commercial power service. These individuals will bear a significant burden of any increase that is approved. Thus, the Borough will be affected by the outcome of this proceeding.

(4) The availability of other means by which the petitioner's interest may be protected.

There are no means other than intervention by which the Borough can adequately protect its interests. This Commission has primary responsibility for approval of APC's proposed revisions and rate increases. The Borough's interests therefore cannot be protected except through the proceedings in this docket. Although the Borough could arguably submit non-party public comments in this case, doing so would not afford it the

rights and obligations of a party, as set forth in 3 AAC 48.155, which are necessary for the Borough to fully protect its interests. In particular, the Borough will need to examine the details of APC's revenues and expenses during the test year in order to determine whether the proposed increase is reasonable, which it will not be able to do without performing its own discovery as a party to this docket. Individual citizens of Haines could petition to join this proceeding to protect their own interests as well, but this would be needlessly inefficient and require citizens to bear a potentially significant financial burden. Accordingly, the Borough should be allowed to intervene to protect the rights of ratepayers in the Haines service area and rate group.

(5) The extent to which petitioner's interest will be represented by existing parties.

No other party can adequately represent the Borough's interests. At present, APC is believed to be the only party in this docket. APC cannot represent the Borough's interests or those of its citizens. If the State Attorney General's office accepts the Commission's invitation to participate then it may represent the interests of the general public throughout all of APC's service area, but those interest may or may not align with those of the Haines Borough and its citizens. This is not just a theoretical concern, but a very real potential problem because, for example, the communities of Haines and Skagway comprise a distinct "rate group" for purposes of setting rates among all of APC's customers.¹ If it is determined upon review of all the information that an across-the-board rate increase unjustifiably burdens Haines ratepayers with costs that should

¹ See Tarriff Advice No. 835-2 Sheet 106.

rightfully be borne by another rate group, then the Attorney General will not be obligated to pursue that argument for the benefit of Haines if it does not advance the more general “public interest” of ratepayers throughout APC’s service area.² Only the Borough can ensure that its own interests are properly protected. Likewise, while other potential parties may have similar interests regarding rates or other aspects of the proposed amendments, no other party can be expected or relied upon to adequately represent the Borough and its citizens in this docket. This is particularly so at present because there are no other parties to this proceeding, meaning the Borough is the only consumer currently prepared to participate at all.

(6) The extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, including the issues that petitioner intends to address in the proceeding.

The Borough is a municipal government representing approximately 2,500 Alaskans. It owns and operates its own water and sewer public utilities, and as such has experience in utility matters and with this commission. In addition, its leaders and citizens have participated meaningfully throughout this docket by submitting public comments. Finally, it has engaged experienced counsel and a rate-making consultant to coordinate its effective and efficient participation and to ensure that the Borough’s participation is meaningful, relevant, and focused on issues that are likely to affect the outcome of this docket. The Borough will focus on developing evidence relevant to the

² AS 44.23.020(e).

factors this commission must consider in deciding this case. This will facilitate production of a sound record.

Primarily, the Borough seeks to address the justness and reasonableness of APC's proposed rate increases, generally and as applied to Haines area consumers. The issues the Borough might address include, but are not limited to, the issues raised by this commission with regard to APC's debt cost and structure, the cost of capital adjustment for "additional risk," the Coffman Cove loss, and the Border station contract cancellation.³ In addition, the Borough believes there are significant public policy concerns and conflicts between, for example, the efforts by this community (and the entire state) to reduce energy consumption and APC's proposal to raise rates in part because its sales are declining. The Borough will use the commission's discovery rules to develop and examine the evidence that is needed to develop a sound record.

(7) The extent to which participation of the petitioner will broaden the issue or delay the proceeding.

The Borough's participation will not broaden the issues under consideration in this docket. The Borough intends to address only those issues that may impact its interests, and, as stated above, its participation will focus on the justness and reasonableness of APC's proposed rates. These areas of inquiry are squarely within the scope of the commission's review of APC's filing and are the precise reason the commission invited intervention by interested parties.

³ U-14-002(1), p. 2.

The commission invited interested parties to file petitions to intervene on January 13, 2014, setting a deadline of thirty days pursuant to 3 AAC 48.110. The Borough has filed this petition prior to that deadline and before any other pleadings or events have occurred. Permitting the Borough to participate will not delay the proceeding.

Dated this ____ day of February, 2014.

BOYD, CHANDLER &
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By: _____
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